

M

Scott. II-27-100,000-21-5-53.

Home (19549) Department.

Ms SERIES.

P 1(16)

G.O. No. 4489

Dated 9. 11. 1949

[Despatch Abstract.]

ACT. Madras Suppression of Immoral Traffic Act, 1930 -
letting of houses for brothels and solicitation for
prostitution - Prevention - Legislation - Non-official
Bill - Papers recorded.

NOTE FOR CABINET.

ACT - MADRAS SUPPRESSION OF IMMORAL TRAFFIC ACT, 1930 - Letting of houses for brothels and solicitation for prostitution - Prevention - Legislation.

Sri T. Viswanathan, M.L.A., has given notice of his intention to move for leave to introduce the Madras Suppression of Immoral Traffic (Amendment) Bill, 1949 at the ensuing meeting of the Legislative Assembly. A copy of the Bill with the statement of objects and reasons is annexed. The object of the Bill is to penalise --

(i) a landlord who lets a house for brothel keeping; and

(ii) any person who solicits, in any place by means of any visible representation, word or physical act, for the purpose of prostitution.

2. The subject matter of the Bill falls within the scope of the Provincial and Concurrent Legislative lists. The Bill is intra vires the Provincial Legislature and requires neither the previous sanction of the Governor under the Government of India Act, 1935 nor the recommendation of the Governor under that Act. The following remarks are called for with reference to clauses 2, 6 and 7 of the Bill.

Clause 2: The provisions of the Madras Suppression of Immoral Traffic Act, 1930 are at present extended to an area only after it is known that prostitution exists in that area to such an extent that it should be prevented. Further, until more rescue homes and shelters are established it will be difficult to extend all the provisions of the Act to the whole Province. The Home Department therefore consider that clause 2 of the Bill cannot be accepted.

Clause 6: Under section 5 (2)(b) of the Madras Suppression of Immoral Traffic Act, relating to punishment for allowing premises to be used as a brothel, a land-lord cannot be punished, if he lets any premises or any part thereof to any person other than those convicted under section 5 (1) or 5 (2) (a) of the Act. The Bill is designed to remove this difficulty and to give power to the authorities to declare, as a brothel, a house which is used or likely to be used for brothel-keeping, to take possession of it, to cease its tenancy and also to release it subsequently to the land-lord on security.

The original Bill (Bill No. XVI of 1928) of the Madras Suppression of Immoral Traffic Act contained a provision to the effect that the Commissioner of Police may, on receipt of information that any house, room or place is being used as a brothel, first issue a notice to the owner, lessor, manager, lessee, tenant or occupier of the house, room or place, to appear before him in person on a fixed date and to show cause why its use as a brothel should not be discontinued; On the date fixed for hearing, he may, if satisfied, after such enquiry as he deems fit, that the house, room or place is used as a brothel, issue an order, in writing directing that such use of the premises be discontinued from a date not less than fifteen days from the date of the order; if, in spite of such order, it is found on enquiry that such use is continued, he may order that the house, room or place be closed and quitted within a period of seven days and be not thereafter resumed. The Select Committee which considered that Bill stated that the procedure laid down was too dilatory to be of any effect. The provision was not, therefore, accepted.

Legal have stated that clauses 6 (b) and 6 (c) of the present Bill are clearly repugnant to section 7 (1) of the Madras Buildings (Lease and Rent Control) Act, 1946 which prohibits the eviction of a tenant except in accordance with the provisions of

that section. Home Department considers that clause 6 is too drastic. ✓

Clause 7: The Select Committee which considered the original Bill (Bill No. XVI of 1928) relating to the Madras Suppression of Immoral Traffic Act, 1930 proposed a similar provision, namely:

"Whoever in any street or public place or place of public resort or within sight of and in such manner as to be seen or heard from any street or public place whether from within any house or not -

(a) by words, gestures wilful and indecent exposure of his or her person or otherwise attracts or endeavours to attract attention for the purpose of prostitution, or

(b) solicits or molests any person or loiters for the purpose of prostitution,

shall be punished with imprisonment for a term which may extend to one month or with fine which may extend to one hundred rupees or with both."

But Mr. F.E. James, M.L.C., who was one of the members of the Select Committee was of the view that the above provision was most dangerous to the liberty of the individual and suggested a fresh clause which was finally accepted with slight modification.

3. Home Department considers that the amendments proposed in clause 7 of the present Bill are too wide to be acceptable.

4. With regard to the attitude to be adopted by the Government towards the present Bill, Hon'ble ~~Mr~~ the Minister (Education and Law) as minuted as follows --

"I am for opposing the Bill. It may go before the Cabinet.

K.M./5-7-1949".

5. The question for decision is -

- (i) whether the Government will oppose the Bill; or
- (ii) if not, whether they will remain neutral allowing members to vote as they please; or
- (iii) whether they will support the Bill.

K. MADHAVA MENON
Hon'ble the Minister for Education & Law.

Annexure..... 2

ANNEXURE.

A BILL TO AMEND THE MADRAS SUPPRESSION OF IMMORAL TRAFFIC
ACT, 1930.

- Preamble** WHEREAS it is found necessary to amend the Madras Suppression of Immoral Traffic Act 1930, it is hereby enacted as follows:
- Short title:** 1. This Act may be called the Madras Suppression of Immoral Traffic (Amendment) Act, 1949.
- Amendment of Sec. 2 of Act. V of 1930** 2. Substitute the following for Section 2. The Act shall come into force at once.
- Amendment of Sec. 4 of Act V of 1930** 3. (a) In section 4 (a) after the word "habitually" insert the words "uses", or"
(b) In section 4 (e) delete the word "Promiscuous"
- Amendment of Sec. 5 of Act V of 1930** 4. In Section 5 (2) (b) after the words "Clause (a) of this sub-section insert the following words "or to a person named under 5A(a) of this Act."
- Amendment of Sec. 5(2)(b)** 5. In Section 5 (2) (b) after the words "with the knowledge" insert the following; "present or subsequent or reasonable suspicion".
- New Section 5(A)** 6. Add the following new Section 5-A:
- Power to declare a house as a Brothel** (a) Where a District Magistrate gets information from a Police Officer or otherwise, as regards the existence of a brothel, he shall make a summary enquiry and may declare, as a result of such enquiry that the house is used or is likely to be used as a brothel by a person or persons named.
- District Superintendent to take possession of brothels** (b) On a declaration being made under the foregoing sub-section, the District Superintendent of Police or a Deputy Superintendent of Police authorised by him shall take possession of the house, and evict the inmates of the house forthwith, with such reasonable force as may be necessary for the purpose,
- Tenancy to cease** (c) ~~The landlord may~~ Notwithstanding any law or contract to the contrary, all rights to occupy the house by any person shall cease when a declaration is made under section 5A(a) by the District Magistrate that the house is a Brothel.
- Release of the house to the land-lord** (d) The landlord may at any time after two ~~after-two~~ months apply to the District Magistrate for possession of the house at any subsequent period not being less than two months from the date on which it had been taken into Police custody.
(e) The District Magistrate may if he is satisfied, that the house would not be used as a brothel direct the District Superintendent of Police to release the house and for this purpose direct the landlord to furnish security.
(f) Rejection of an application shall not be a bar to a subsequent application under Section 6 (d).
- Amendment of Section 12 of Act V of 1930** 7. (a) In place of sub-clause (1) of section 12, substitute the following:
"in any place solicits any person by means of any visible representation, word or physical act, for the purpose of prostitution"
(b) In sub section (2) of Section 12, ^adelete the words "street" or public".

STATEMENT OF OBJECTS AND REASONS.

As a legacy of war, houses of ill-fame and brothels have increased in many municipal areas. With the present provisions in the Act, prosecution for soliciting has become difficult because soliciting is not per se an offence under the Act; it would become an offence only if it is done in a manner to cause obstruction etc. In some cases, the Courts have made a distinction that concubinage is protected by the prohibition or promiscuous solicitation and held that the plea of being a concubine is a good defence to a prosecution for solicitation under the Act. Hence the Amending Bill seeks to remove these difficulties. Secondly, under the provisions of the Act, the land-lord of a building can knowingly let the house for brothels until and unless the tenant, lessee or occupier is convicted for running a brothel. A great deal of brothel-keeping is going on, because some land-lords are making their houses available for the purpose, lured by high rents. And unless such letting is made an offence, the existence of brothels cannot be checked. The Amending Bill, therefore, seeks to punish the landlord for letting a house knowingly for the purpose of a brothel, without waiting for a previous conviction of the tenant occupier for using such a house as a brothel and enables the District Magistrate to take possession of a brothel evicting all inmates.

CONFIDENTIAL.

GOVERNMENT OF MADRAS.

Meeting of the Council of Ministers held at Fort St. George,
Madras, on Sunday the 8th August 1949 at 11 A.M.

--

The Hon'ble the Premier presided.

Present: The Hon'ble Dr. T.S.S. Rajan
" Sri M. Bhaktavatsalam
" Sri B. Gopala Reddi
" Sri K. Madhava Menon
" Sri H. Sitarama Reddi
" Sri A.B. Shetty
" Sri K. Chandamouli
" Sri N. Parameswaran
" Sri N. Sanjiva Reddi
" Sri C. Perumalswami Reddi
" Sri J.L.P. Roche Victoria

AGENDA:

12¹ ACT - Madras Suppression of Immoral Traffic Act, 1930 -
Letting of houses for brothels and solicitation for
prostitution - Prevention - Legislation.

ORDER:

Adjourned

K.R.M.

9-8-49

P.S. Kumaraswamy Raja
Premier.

Confidential.

6

GOVERNMENT OF MADRAS

Meeting of the Council of Ministers held at Fort St. George,
Madras, on Wednesday the 7th September 1949 at 11 a.m.

The Hon'ble the Premier presided.

~~Presiding~~ Present.

The Hon'ble Dr. T.S.S. Rajan
" Sri M. Bhaktavatsalam
" Sri B. Gopala Reddi
" Sri K. Madhava Menon
" Sri H. Sitarama Reddi
" Sri A.B. Shetty
" Sri K. Chandramouli
" Sri B. Parameswaran
" Sri M. Sanjiva Reddi
" Sri C. Perumalswami Reddi
" Sri J.P.L. Roche Victoria

AGENDA:

2. ACT - Madras Suppression of Immoral Traffic Act, 1930 -
Letting of houses for brothels and solicitation for
prostitution - Prevention - Legislation.

ORDER:

It was decided that the Bill should be opposed.

K.R.M.
8-9-49

P.S. KUMARASWAMI RAJA
Premier.

Confidential.

6

GOVERNMENT OF MADRAS

Meeting of the Council of Ministers held at Fort St. George,
Madras, on Wednesday the 7th September 1949 at 11 a.m.

The Hon'ble the Premier presided.

~~Presiding~~ Present.

The Hon'ble Dr. T.S.S. Rajan
" Sri M. Bhaktavatsalam
" Sri B. Gopala Reddi
" Sri K. Madhava Menon
" Sri H. Sitarama Reddi
" Sri A.B. Shetty
" Sri K. Chandramouli
" Sri B. Parameswaran
" Sri M. Sanjiva Reddi
" Sri C. Perumalswami Reddi
" Sri J.P.L. Roche Victoria

AGENDA:

2. ACT - Madras Suppression of Immoral Traffic Act, 1930 -
Letting of houses for brothels and solicitation for
prostitution - Prevention - Legislation.

ORDER:

It was decided that the Bill should be opposed.

K.R.M.
8-9-49

P.S. KUMARASWAMI RAJA
Premier.

HOME DEPARTMENT.

Please ~~sae~~^{see} the orders at page 21~~e.f.~~^{ant}. The Cabinet ~~has~~ decided that the Bill should be opposed.

2. The last session of the Assembly was prorogued on 2nd August 1949. According to rule 3 (b) of the Madras Assembly Rules, the Bill has lapsed. No further action is called for in this file at present. The papers may be recorded in a Ms. G.O.

G.O. (Ms) No. 4489 Home dated 9th November 1949.

Abstract:

ACT - Madras Suppression of Immoral Traffic Act, 1930 - Letting of Houses for brothels and solicitation for prostitution - Prevention. Legislation - Non-official Bill - Papers - Recorded.

xx xx
Secretary to Government.

/True copy/

Sk.


Superintendent,
Madras Record Office, Egmore.


30/11.